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L-03 CIAE-00 INR-07 NSAE-00 SSO-00 NSCE-00 INRE-00

IO-10 SIL-01 /063 W

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FM AMEMBASSY MADRID

TO SECSTATE WASHDC IMMEDIATE NIACT 2409

C O N F I D E N T I A L SECTION 1 OF 2 MADRID 4840

E.O. 11652: GDS

TAGS: PFOR, PINT, SHUM, SP

SUBJ: HUMAN RIGHTS - POSSIBLE QUESTIONS AND ANSWERS
FOR CONGRESSIONAL TESTIMONY

REF : (A) MADRID 3243: (B) MADRID A-51

1. REFERENCE IS MADE TO THE REQUEST FOR POSSIBLE QUESTIONS AND SUGGESTED ANSWERS REGARDING HUMAN RIGHTS IN SPAIN FOR USE BY DEPUTY SECRETARY IN CONNECTION WITH JULY 14, CONGRESSIONAL HEARING. LISTED BELOW ARE POSSIBLE QUESTIONS, MOSTLY GENERAL IN NATURE, BUT THE LAST FEW REFERRING TO SPECIFIC HUMAN RIGHTS-RELATED EVENTS, WITH SUGGESTED POSSIBLE ANSWERS. FOR MORE COMPREHENSIVE BACKGROUND INFORMATION CONCERNING HUMAN RIGHTS IN SPAIN, REFERENCE SHOULD BE MADE TO MADRID 3243, DATED MAY 12,1975, AND TO MADRID'S A-51, DATED FEBRUARY 28,1975.

2. WHAT ARE STATUS AND NUMBER OF POLITICAL CRIMES AND POLITICAL PRISONERS IN SPAIN? SOME 75 PERCENT OF POLITICAL CRIMES, WHICH INCLUDE SUCH THINGS, UNDER SPANISH PENAL CODE, AS INSULTS TO THE CHIEF OF STATE, ILLICIT ASSOCIATION, ILLEGAL PROPAGANDA, TREASON, DISRESPECT FOR AUTHORITY, AND CONSCIENTIOUS OBJECTION, FALL UNDER JURISDICTION OF THE PUBLIC ORDER TRIBUNAL. IN 1973, FOR EXAMPLE, THERE WERE 2,700 INDICTMENTS FOR THESE TYPES OF POLITICAL OFFENSES. NUMBER OF PERSONS SERVING SENTENCES FOR POLITICALLY-RELATED OFFENSES IS ESTIMATED AT ABOUT 700 PERSONS, ALTHOUGH SOME SOURCES

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ALLEGE NUMBER MAY BE AS HIGH AS 2-3,000. DISCREPANCY MAY BE

PARTIALLY EXPLAINED BY CIRCUMSTANCE THAT INDICTED PERSONS ARE HELD IN PRISON WHILE AWAITING TRIAL BUT ARE OFTEN SUBSEQUENTLY ACQUITTED. ADDITIONALLY, A SMALLER NUMBER OF POLITICAL OFFENSES ARE JUDGED BY SPAIN'S MILITARY TRIBUNALS IN COURTS-MARTIAL PROCEEDINGS. ALTHOUGH NO FIGURES ARE PUBLISHED FOR SUCH DETAINEES, IT IS ESTIMATED THAT THOSE SERVING SENTENCES HANDED DOWN BY MILITARY TRIBUNALS MAY NUMBER 50-75 PERSONS.

3. WHAT ABOUT CONSCIENTIOUS OBJECTORS? CONSCIENTIOUS OBJECTORS ALSO FALL UNDER ABOVE CATEGORY OF POLITICAL PRISONERS. OF THE 700 ESTIMATED POLITICAL PRISONERS, 200-300 ARE CONSCIENTIOUS OBJECTORS, AND ALMOST ALL OF LATTER ARE JEHOVAH'S WITNESSES. SPANISH LAW MAKES NO PROVISION FOR CONSCIENTIOUS OBJECTION.

4. WHAT IS STATUS OF TRADE UNION FREEDOMS? SPAIN ONLY PERMITS ONE GOVT-CONTROLLED SYNDICAL ORGANIZATION TO WHICH ALL OF BOTH SPAIN'S WORKERS AND EMPLOYERS MUST BELONG. WORKKERS ARE NOT FREE TO ORGANIZE THEIR OWN INDEPENDENT UNIONS (ALTHOUGH VARIOUS ILLEGAL CLANDESTINE ONES DO EXIST). TWO MONTHS AGO THE GOVT GRANTED A MODIFIED AND HIGHLY CIRCUMSCRIBED RIGHT TO STRIKE THROUGH A DECREE-LAW, THE FIRST IN POST CIVIL WAR SPAIN. A GREAT VARIETY OF STRIKES CONTINUE TO BE PROHIBITED AND THERE IS A MINIMUM 18DAY NOTICE PERIOD FOR A LEGAL STRIKE. (TO DATE, THERE HAVE REPORTEDLY NOT BEEN ANY LEGAL STRIKES.)

4. TO WHAT EXTENT DO SPANIARDS HAVE FREEDOM OF ASSOCIATION AND ASSEMBLY? ALTHOUGH SPANISH BILL OF RIGHTS THEORETICALLY GRANTS FREEDOM OF ASSOCIATION AND ASSEMBLY, THERE ARE IN FACT MANY RESTRICTIONS UPON THIS FREEDOM. MINISTRY OF INTERIOR REGULATES PUBLIC ASSEMBLY, AND ANY MEETINGS OF MORE THAN 20 PERSONS MUST HAVE PRIOR APPROVAL OF THAT MINISTRY TO BE LEGAL. BASIC CONTROL OF FREEDOM OF ASSOCIATION IS 1964 ASSOCIATION LAW, WHICH BARS ANY ASSOCIATIONS PRESENTING DANGER TO SOCIAL AND POLITICAL UNITY OF SPAIN. IN JANUARY 1975, A STATUTE PERMITTING POLITICAL ASSOCIATIONS WAS PROMULGATED.

5. DO SPANIARDS HAVE FREEDOM TO EMIGRATE? YES. ONLY CONTROL IS THAT THEY OF COURSE HAVE TO GET A PASSPORT TO TRAVEL, AND GOVT CAN REFUSE TO GRANT PASSPORTS, INCLUDING ON POLITICAL GROUNDS (SPANIARDS HAVE TO PRESENT POLICE GOOD CONDUCT CERTIFICATE TO GET PASSPORT).
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SPANISH GOVT HAS BEEN FAIRLY LIBERAL IN THIS RESPECT, AS WITNESSED BY FACT MORE THAN A MILLION SPANIARDS HOLD JOBS TEMPORARILY ABROAD IN OTHER COUNTRIES OF EUROPE (MOSTLY GERMANY, FRANCE, AND SWITZERLAND) AND RETURN TO SPAIN FOR THE HOLIDAYS EVERY YEAR AND ANOTHER SEVEN MILLION TRAVEL ABROAD EACH YEAR.

6. WHAT ABOUT ALLEGATIONS OF POLICE TORTURE? USE OF PHYSICAL VIOLENCE BY POLICE OR OTHER AUTHORITIES IS PROHIBITED BY SPANISH

LAW, AND THERE ARE CERTAIN LEGAL SAFEGUARDS AGAINST IT. NEVERTHELESS, OCCASIONAL ALLEGATIONS OF THE USE OF TORTURE HAVE BEEN MADE, GENERALLY WITH RESPECT TO INITIAL DETENTION BEFORE THE DETAINEE IS BROUGHT BEFORE A JUDGE (SPANIARDS CANNOT BE DETAINED MORE THAN 72 HOURS UNLESS BROUGHT BEFORE A JUDGE AND FORMALLY CHARGED). IN RECENT JUDICIAL CASE INVOLVING INTERNATIONAL PROTEST CAMPAIGN INVOLVING FEMINISTS GENEVEVA FORREST, LYDIA FALCON, AND PLAYWRIGHT ALFONSO SASTRE (SEE BELOW), THERE HAVE BEEN MANY ACCUSATIONS OF TORTURE, WHICH HOWEVER, INCREASINGLY APPEAR TO HAVE BEEN FABRICATIONS, PERHAPS ORIGINATING IN COMMUNIST PROPAGANDA APPARATUS.

7. WHAT IS STATUS OF RELIGIOUS LIBERTY IN SPAIN? SINCE 1967 RELIGIOUS LIBERTY LAW, THERE HAS BEEN RELATIVE RELIGIOUS FREEDOM FOR NON-CATHOLIC RELIGIONS, HOWEVER, THE LATTER MUST STILL APPLY FOR REGISTRATION, AND MAINTAIN LISTS OF NAMES AND ADDRESSES OF MEMBERS AND OTHER RECORDS AVAILABLE FOR ANNUAL INSPECTION BY JUSTICE MINISTRY, WHICH ALSO REQUIRES NON-CATHOLICS TO CARRY SPECIAL IDENTIFICATION CARD. TODAY THERE ARE BOTH PROTESTANT CHURCHES AND SYNAGOGUES IN SPAIN.

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C O N F I D E N T I A L SECTION 2 OF 2 MADRID 4840

8. TO WHAT EXTENT DOES FREEDOM OF THE PRESS EXIST? SINCE 1965 PRESS LAW, SPAIN HAS BEEN LIBERALIZED SUBSTANTIALY WITH RESPECT TO A WIDE VARIETY OF WRITTEN OPINION IN MAGAZINES AND OTHER PUBLICATIONS THAT REFLECT AN OPPOSITION POINT OF VIEW. LIBERALIZATION IN THE PRESS PHERE HAS BEEN ESPECIALLY CONSPICUOUS IN THE PAST YEAR AND A HALF. HOWEVER, THE GOVT STILL CAN AND DOES CRACK DOWN ON MAGAZINES AND OTHER PUBLICATIONS, BY BANNING CERTAIN ISSUES DEEMED

OFFENSIVE. SUCH GOVT HARASSMENT OF THE PRESS HAS INCREASED IN THE LAST FEW MONTHS.

9. HOW INDEPENDENT IS THE SPANISH JUDICIARY? THE JUDICIARY IS ACKNOWLEDGED BY BOTH GOVT CRITICS AND SUPPORTERS AS BEING THE MOST INDEPENDENT SECTOR OF THE SPANISH ADMINISTRATION. EXAMPLES OF THIS INDEPENDENCE ABOUND. SPANISH COURTS APPEAR ALSO TO BE SHOWING SOMEWHAT GREATER LENIENCE AND FLEXIBILITY, PARTICULARLY POLITICAL COURTS SUCH AS THE PUBLIC ORDER TRIBUNAL.

9. WHAT HAS US GOVT DONE IN RECENT YEARS TO PROMOTE HUMAN RIGHTS IN SPAIN? EMBASSY HAS: (A) THROUGH LEADER GRANTS SENT LEADERS FROM VARIOUS FIELDS WHO ARE CONCERNED WITH HUMAN RIGHTS IN SPAIN TO THE U.S.; (B) MAINTAINED CONTINUING CONTACT WITH BOTH DEMOCRATIC OPPOSITION AND LIBERAL REFORMERS WITHIN SYSTEM WHO ARE MOST ACTIVE IN PROMOTING HUMAN RIGHTS; (C) CONDUCTED INFORMATION PROGRAMS TO PUBLICIZE CONCEPTS SUCH AS FREE TRADE UNIONISM AS PRACTICED IN SYITED STATES; (D) IN NEGOTIATING PROVISIONS OF DEFENSE AGREEMENTS, US GOVT TTS ALWAYS LAID HEAVY STRESS ON SPANIS CONFIDENTIAL

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ASSURANCES FOR DUE PROCESS, FULL GUARANTEES, AND ACCEPTABLE CONDITIONS OF IMPRISONMENT FOR U.S. SERVICEMEN IN SPAIN; (E) CONSULAR OFFICIALS HAVE STAYED IN CLOSE TOUCH WITH U.S. CIVILIAN PRISONERS AND MONITORED CAREFULLY ENTIRE SPANISH PROCESS OF ARREST, TRIAL, AND IMPRISONMENT, AND, WHERE FUNDAMENTAL RIGHTS HAVE BEEN VIOLATED, RAISED ISSUE AT APPROPRIATE LEVELS OF GOS; (F) POINTED OUT TO APPROPRIATE GOS OFFICIALS CONTINUING US CONCERN OVER HUMAN REIGHTS ISSUES.

10. WHAT IS STATUS OF PUERTO DEL SOL BOMBING CASE? GOS RECENTLY FREED ON BAIL, AFTER NINE MONTHS DETENTION ON SUSPICION OF COMPLICITY IN PUERTO DEL SOL BOMBING, PLAYWRIGHT ALFONSO SASTRE, FEMINIST LYDIA FALCON O'NEILL, AND LATTER'S HUSBAND ELISEO BAYO POBLADOR. GENEVOEVA FORREST, PRINCIPAL ACCUSED, REMAINS IN JAIL AND IS LIKELY TO REMAIN THERE UNTIL TRIAL. FROM ALL INDICATIONS, EARLIER ALLEGATIONS OF TORTURE APPEAR UNFOUNDED, ALTHOUGH THERE HAS REPORTEDLY BEEN SOLITARY CONFINEMENT, THRE IS, AND OTHER TPES OF COERCION. FOR MORE COMPLETE INFO ON THIS CASE, SEE MADRID'S 4119 AND PREVIOUS. STABLER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: REPORTS, HUMAN RIGHTS, POLICIES, POLITICAL SITUATION, US CONGRESSIONAL PRESENTATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 12 JUL 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: greeneet
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975MADRID04840
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D750241-0798
From: MADRID
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750761/aaaaccj.tel
Line Count: 216
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EUR
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 75 MADRID 3243, 75 MADRID A-51
Review Action: RELEASED, APPROVED
Review Authority: greeneet
Review Comment: n/a
Review Content Flags:
Review Date: 18 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <18 JUN 2003 by ElyME>; APPROVED <29 OCT 2003 by greeneet>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: HUMAN RIGHTS - POSSIBLE QUESTIONS AND ANSWERS FOR CONGRESSIONAL TESTIMONY
TAGS: PFOR, PINT, SHUM, SP
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006